



4. Upon information and belief, Defendant Drafting & Design, Inc. (“Drafting & Design”) is a North Carolina corporation with its principal place of business at 10100 Park Cedar Drive #130, Charlotte, North Carolina 28210.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b).

6. This Court has personal jurisdiction over Lennar consistent with the U.S. Constitution and N.C. Gen Stat. § 1-75.4 because, on information and belief, Lennar regularly and actively conducts business in this State and judicial district.

7. This Court has personal jurisdiction over Drafting & Design consistent with the U.S. Constitution and N.C. Gen Stat. § 1-75.4 because, on information and belief, Drafting & Design is located in this judicial district and regularly and actively conducts business in this State and judicial district.

8. Venue is proper in the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. §§ 1391(b) and (c).

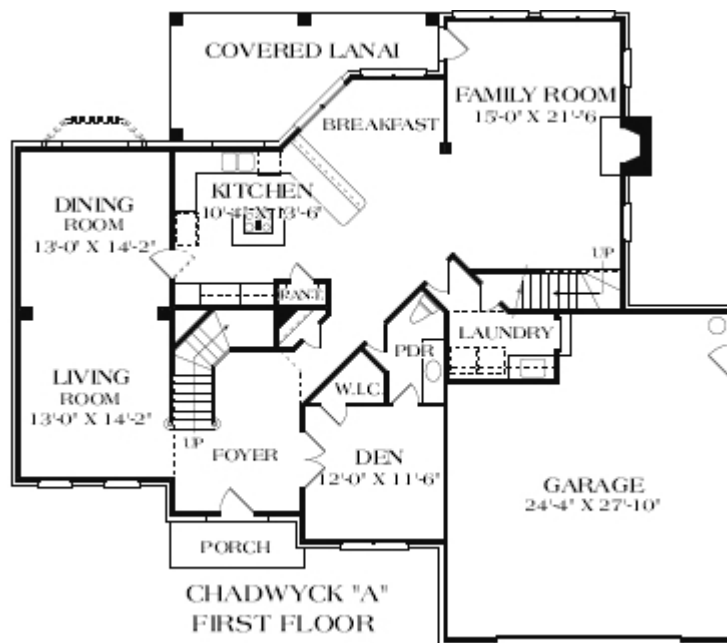
### **FACTUAL BACKGROUND**

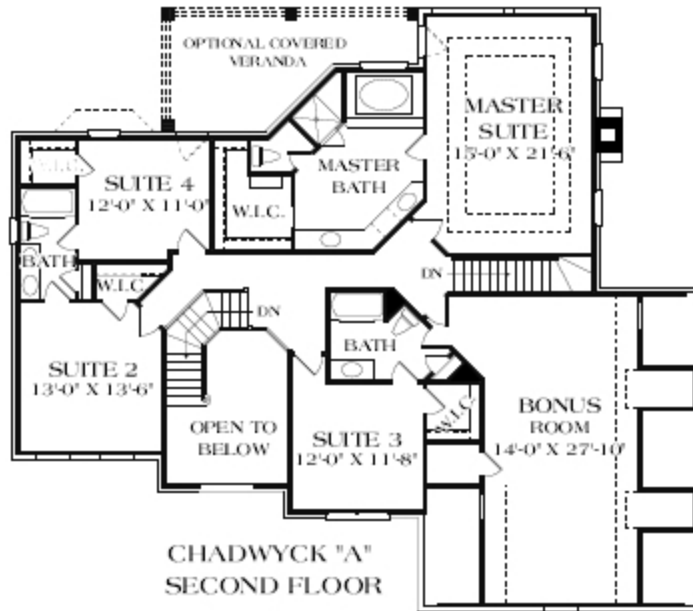
9. Building Graphics is one of the nation’s top residential architecture firms. It is engaged in the business of designing and developing award-winning architectural technical drawings for homes. Building Graphics’ clients include both individuals and home builders who purchase architectural plans from Building Graphics or contract with Building Graphics for custom architectural services.

10. In 1993, Building Graphics designed an original residential architectural drawing for a floor plan/elevation design entitled “UDC Chadwyck A.” The UDC

Chadwyck A design is protected by copyright as a technical drawing, reflected in U.S. Copyright Registration Number VA 1-644-812, effective October 10, 2008, and as an architectural work, reflected in U.S. Copyright Registration Number VA 1-644-810, effective November 7, 2008 (collectively, the “Chadwyck Design”). True and correct copies of the technical work and architectural drawing copyright registrations for the Chadwyck Design are attached hereto as Exhibit A and Exhibit B, respectively.

11. The copyrighted floor plan for the Chadwyck Design is provided below:





12. There are several unique aspects to the Chadwyck Design floor plan, including, but not limited to:
- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;
  - (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;
  - (c) the den design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
  - (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
  - (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
  - (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
  - (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

13. At all relevant times, Building Graphics has been the sole owner of all rights in the Chadwyck Design.

14. The Chadwyck Design was originally created for use by UDC Homes, Inc. (“UDC Homes”), a single-family home builder. After creating the Chadwyck Design, Building Graphics had an arrangement with UDC Homes which allowed UDC Homes to build homes pursuant to the Chadwyck Design with Building Graphics’ authorization and approval.

15. Upon information and belief, UDC Homes had great success with the Chadwyck Design created by Building Graphics, as it built and sold numerous homes according to the Chadwyck Design floor plan/elevation.

16. Homes built by UDC Homes pursuant to the Chadwyck Design are located in open communities throughout Charlotte, North Carolina.

17. During and after its relationship with UDC Homes, Building Graphics retained all right, title, and interest in and to the Chadwyck Design, including all copyright rights related thereto.

18. Upon information and belief, one of Lennar’s employees, Mr. John Gardner, was previously employed by UDC Homes.

19. Upon information and belief, Mr. John Gardner had access to and was otherwise familiar with the Chadwyck Design while employed by UDC Homes and later while employed by Lennar.

20. Upon information and belief, Lennar is one of the nation’s largest homebuilders, and is primarily engaged in the construction and sale of single-family homes.

21. Upon information and belief, Lennar builds new homes in sixteen different states, including North Carolina and South Carolina.

22. Upon information and belief, Lennar is familiar with the designs of homes built by other home builders, including UDC Homes.

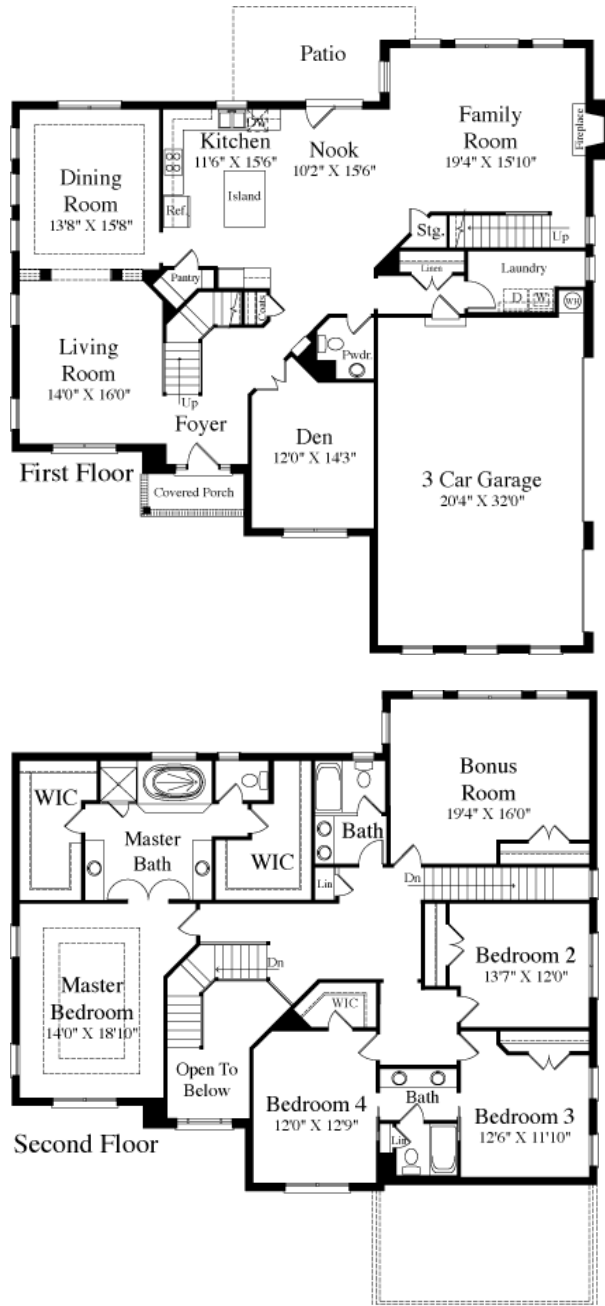
23. Upon information and belief, Lennar creates various “New Home Communities” in the cities in which it builds new homes as part of its building and sales process.

24. Upon information and belief, the cities in North Carolina in which Lennar has built homes are Raleigh and Charlotte. Upon information and belief, Lennar has created approximately ten New Home Communities in the Charlotte area.

25. One of the New Home Communities in the Charlotte area is called Litchfield Estates. Upon information and belief, Lennar offers three floor plans for homes in Litchfield Estates.

26. One of the floor plans available in Litchfield Estates is called the Sumerlin. Lennar offers information on the Sumerlin, including the Sumerlin floor plan and pictures of the three exterior elevations available for the Sumerlin, on its website at <http://lennar.com/New-Homes/North-Carolina/Charlotte/Litchfield-Estates/Sumerlin>.

27. The floor plan for the Sumerlin is provided below:



28. There are several significant similarities between the Sumerlin floor plan and the Chadwyck Design, including, but not limited to:

- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;

- (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;
- (c) the den design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
- (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
- (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
- (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
- (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

29. As demonstrated above, the floor plan for the Sumerlin is identical or substantially similar to the Chadwyck Design.

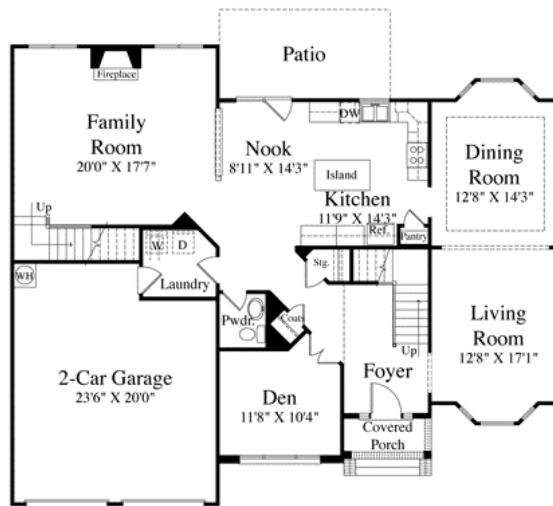
30. Upon information and belief, each Sumerlin home is priced from \$412,990.

31. Another of Lennar's New Home Communities in the Charlotte area is called Litchfield Manor. Upon information and belief, Lennar offers three floor plans for homes in Litchfield Manor.

32. One of the floor plans available in Litchfield Manor is called the Hampton. Lennar offers information on the Hampton, including the Hampton floor plan and a virtual tour of the home, on its website at <http://lennar.com/New-Homes/North-Carolina/Charlotte/Litchfield-Manor/Hampton>.



33. The floor plan for the Hampton is provided below:



### FIRST FLOOR



### SECOND FLOOR

34. There are several significant similarities between the Hampton floor plan and the Chadwyck Design, including, but not limited to:

- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;
- (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;

- (c) the den design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
- (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
- (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
- (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
- (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

35. As demonstrated above, the floor plan for the Hampton is identical or substantially similar to the Chadwyck Design.

36. Upon information and belief, each Hampton home is priced from \$336,990. Upon information and belief, the Hampton and is the most expensive home selection available in the Litchfield Manor community.

37. Another of Lennar's New Home Communities in the Charlotte area is called Demere. Upon information and belief, Lennar offers three floor plans for homes in Demere.

38. One of the floor plans available in Demere is called the Hudson. Lennar offers information on the Hudson, including the Hudson floor plan and a virtual tour of the home, on its website at <http://lennar.com/New-Homes/North-Carolina/Charlotte/Demere/Hudson>.

39. The floor plan for the Hudson is provided below:



40. There are several significant similarities between the Hudson floor plan and the Chadwyck Design, including, but not limited to:

- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;

- (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;
- (c) the den design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
- (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
- (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
- (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
- (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

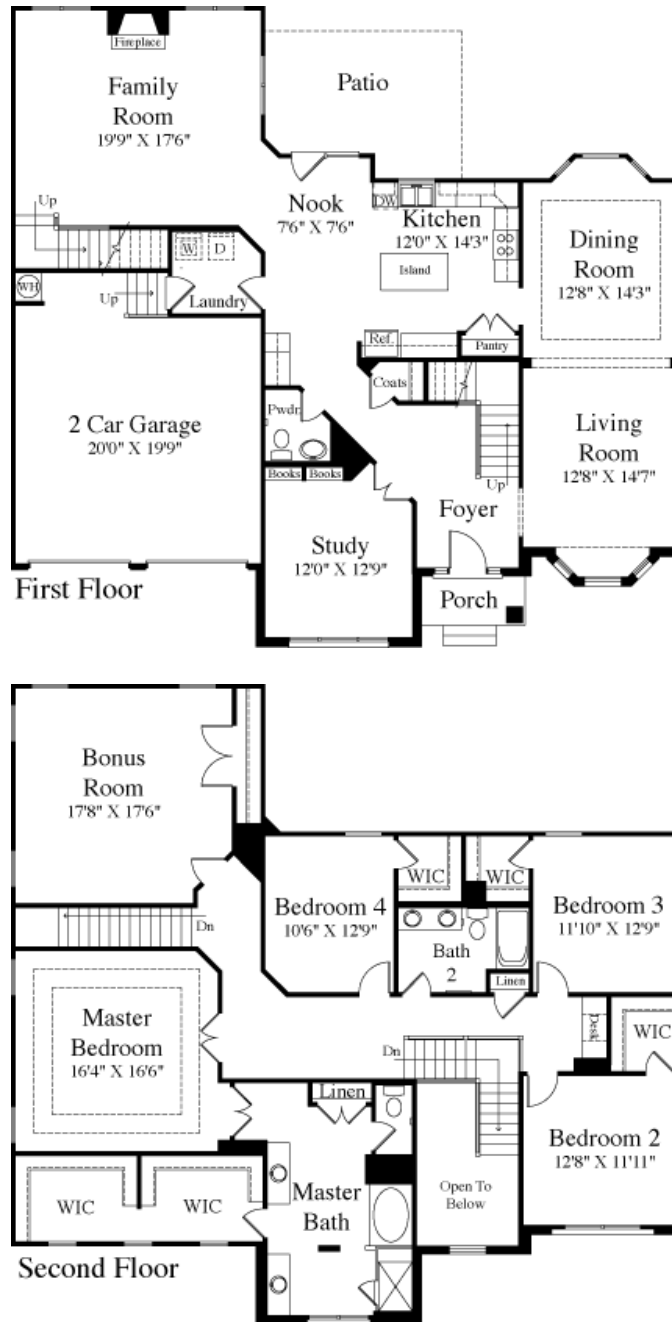
41. As demonstrated above, the floor plan for the Hudson is identical or substantially similar to the Chadwyck Design.

42. Upon information and belief, each Hudson home is priced from \$298,990. Upon information and belief, the Hudson is the most expensive home selection available in the Demere community.

43. Another of Lennar's New Home Communities in the Charlotte area is called Stowe Point. Upon information and belief, Lennar offers three floor plans for homes in Stowe Point.

44. One of the floor plans available in Stowe Point is called the Abbey. Lennar offers information on the Abbey, including the Abbey floor plan and a virtual tour of the home, on its website at <http://lennar.com/New-Homes/North-Carolina/Charlotte/Stowe-Pointe/Abbey>.

45. The floor plan for the Abbey is provided below:



46. There are several significant similarities between the Abbey floor plan and the Chadwyck Design, including, but not limited to:

- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;

- (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;
- (c) the den or “study” design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
- (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
- (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
- (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
- (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

47. As demonstrated above, the floor plan for the Abbey is identical or substantially similar to the Chadwyck Design.

48. Upon information and belief, each Abbey home is priced from \$309,990. Upon information and belief, the Abbey is the most expensive home selection available in the Stowe Point community.

49. Upon information and belief, Lennar also has built new homes in South Carolina. Upon information and belief, the cities in South Carolina in which Lennar builds homes are Greenville, Myrtle Beach, and Charleston.

50. Upon information and belief, Lennar has created approximately seven New Home Communities in the Charleston area.



54. There are several significant similarities between the Bluffton floor plan and the Chadwyck Design, including, but not limited to:

- (a) The first floor hallway design, which is angled from the foyer toward the back of the home;
- (b) the tandem living room and dining room design, with the living room positioned at the front of the house and the dining room positioned immediately behind the living room;
- (c) the den design, positioned at the front of the house across the foyer and front staircase area from the tandem living room and dining room;
- (d) the family room and garage design, positioned on the opposite side of the house from the tandem living and dining rooms, with the garage positioned at the front of the house and the family room positioned at the back of the house behind the garage;
- (e) the laundry room design, positioned between the garage at the front of the house and the family room at the back of the house;
- (f) the front staircase design, which is angled as it leads from the first floor foyer to the second floor hallway; and
- (g) the rear staircase design, located between the family room and laundry room and garage, and leading from the family room to the second floor.

55. As demonstrated above, the floor plan for the Bluffton is identical or substantially similar to the Chadwyck Design.

56. Upon information and belief, each Bluffton home is priced from \$372,990.

57. Lennar is not authorized to reproduce, prepare derivative works of, distribute, and/or display publicly the Chadwyck Design. In this regard, Lennar is not authorized to build homes that are identical or substantially similar to the Chadwyck Design.



58. Upon information and belief, Lennar has had access to the Chadwyck Design, including, but not limited to, through Mr. John Gardner.

59. Upon information and belief, Defendant Drafting & Design is engaged in the business of creating architectural floor plans.

60. Upon information and belief, Lennar hired or otherwise contracted with Drafting & Design for the preparation of the drawings for some or all of the Sumerlin, Hampton, Hudson, Abbey, and Bluffton floor plans (hereinafter, the “Infringing Plans”).

61. Upon information and belief, Lennar provided Drafting & Design with copies or reproductions of, or information on, the Chadwyck Design, or a derivative or derivatives thereof, for the preparation of the Infringing Plans.

62. Upon information and belief, Lennar paid Drafting & Design to provide the Infringing Plans without regard for Building Graphics’ copyright rights in the Chadwyck Design.

63. Lennar’s and Drafting & Design’s preparation of the Infringing Plans, which are identical or substantially similar to the Chadwyck Design, constitutes copyright infringement in violation of 17 U.S.C. §§ 106 and 501.

64. Lennar’s building and selling of the Sumerlin, Hampton, Hudson, Abbey, and Bluffton homes, which homes have floor plans that are identical or substantially similar to the Chadwyck Design, constitutes copyright infringement in violation of 17 U.S.C. §§ 106 and 501.

65. Upon information and belief, Lennar is and has been aware that the Chadwyck Design is owned by Building Graphics. Upon information and belief, Lennar’s infringing activity is a willful violation of Building Graphics’ rights.

66. Upon information and belief, Drafting & Design knew or should have known that the copies or reproductions of, or information on, the Chadwyck Design, or a derivative or derivatives thereof, provided to Drafting & Design for the preparation of the Infringing Plans, were protected by federal copyright and owned by Building Graphics. Thus, upon information and belief, Drafting & Design's infringing activity is a willful violation of Building Graphics' rights.

67. Lennar's and Drafting & Design's infringing activities have caused and will continue to cause harm to Building Graphics' sales, goodwill, and reputation among its customers and in the residential architecture design industry.

68. Neither Lennar nor Drafting & Design should be permitted to profit from their unlawful activities in gross derogation of the rights of Building Graphics.

69. Building Graphics has no adequate remedy at law and is suffering irreparable harm and damages as a result of Lennar's and Drafting & Design's acts in an amount not yet determined.

**COUNT I**  
**COPYRIGHT INFRINGEMENT – 17 U.S.C. § 501**

70. Building Graphics realleges and incorporates by reference paragraphs 1 through 69.

71. Building Graphics owns a valid and enforceable copyright in the Chadwyck Design.

72. Defendants have reproduced, prepared derivative works of, distributed, and/or displayed publicly the Infringing Plans, which are identical or substantially similar to the copyrighted Chadwyck Design, in violation of 17 U.S.C. §§ 106 and 501.

73. On information and belief, Lennar has built and sold, and continues to build and sell, numerous homes according to the Infringing Plans. The number of homes Lennar has built according to the Infringing Plans has yet to be determined but is believed to be as many as 100 or greater for gross revenues of as much as \$30,000,000 or more.

74. Defendants have knowingly and willfully infringed Building Graphics' rights in the Chadwyck Design by virtue of the Infringing Plans.

75. Defendants have knowingly and willfully infringed Building Graphics' rights in the Chadwyck Design by virtue of the Sumerlin, Hampton, Hudson, Abbey, and Bluffton homes.

76. As a result of Defendants' infringement, Building Graphics has suffered damages, including lost sales and lost profits.

77. Building Graphics is entitled to damages in an amount to be proven at trial, including both actual damages and profits attributable to the infringement not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504.

78. Defendants' infringement of Building Graphics' Chadwyck Design, in violation of 17 U.S.C. §§ 106 and 501, has caused irreparable injury to Building Graphics. Upon information and belief, unless restrained and enjoined, Defendants will continue to infringe the Chadwyck Design.

79. Building Graphics' remedy at law is not adequate to redress the harm Defendants have caused and will continue to cause until its conduct is restrained, entitling Building Graphics to injunctive relief pursuant to 17 U.S.C. § 502 and the equitable authority of this Court.

**COUNT II**  
**UNFAIR COMPETITION – 15 U.S.C. § 1125**

80. Building Graphics realleges and incorporates by reference paragraphs 1 through 79.

81. Defendants' Infringing Plans, and the homes built and sold according to these plans, including the Sumerlin, Hampton, Hudson, Abbey, and Bluffton homes, are identical or substantially similar to the Chadwyck Design.

82. By reproducing, preparing derivative works of, distributing, displaying publicly and/or building and selling homes according to the Infringing Plans, which are identical or substantially similar to the Chadwyck Design, Defendants misrepresent and falsely describe the source of the Infringing Plans, and create a likelihood of confusion or mistake as to the affiliation, connection, or association of Defendants with Building Graphics, or as to the origin, sponsorship, or approval of the Infringing Plans and the homes built pursuant thereto.

83. Defendants have competed unfairly with Building Graphics and realized unjust profits as a result of its unfair competition.

84. Defendants' acts have been willful, reckless, wanton, egregious, unfair, unethical, deceptive and unscrupulous and are in and affecting commerce in North Carolina.

85. Building Graphics has no adequate remedy at law, and will continue to suffer irreparable harm unless Defendants' conduct is enjoined.

WHEREFORE, Building Graphics respectfully requests that the Court will:

- (A) Preliminary and permanently enjoin Defendants, their officers, agents, representatives, employees, and those persons acting in concert with Defendants from:
- (i) directly or indirectly reproducing, preparing derivative works of, selling, offering for sale, distributing, and/or publicly displaying infringing copies of the Chadwyck Design, either through Defendants' Infringing Plans, homes built and sold pursuant to the Infringing Plans, or otherwise; and
  - (ii) otherwise engaging in acts of copyright infringement of the Chadwyck Design.
- (B) Order Defendants to pay all actual damages suffered by Building Graphics as a result of Defendants' infringing activities, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117;
- (C) Order Defendants to disgorge all profits attributable to its infringement of the Chadwyck Design, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117;
- (D) Grant Plaintiff enhanced damages because of the willful, reckless, wanton, egregious, unfair, unethical, deceptive and unscrupulous conduct of Defendants;
- (E) Order Defendants to offer up for impounding, during the pendency of this action, all copies of the Infringing Plans or other floor plans infringing the Chadwyck Design, pursuant to 17 U.S.C. § 503(a);
- (F) As part of a final judgment or decree, order Defendants to destroy all copies of the Infringing Plans or other floor plans infringing the Chadwyck Design, pursuant to 17 U.S.C. § 503(b);
- (G) Order that Defendants pay Building Graphics its costs, including reasonable attorneys' fees;
- (H) Grant such other and further relief as this Court deems just and equitable.

Building Graphics hereby demands a trial by jury on all issues so triable.

Date: December 1, 2008

s/ J. Mark Wilson  
J. Mark Wilson  
N.C. State Bar No. 25763  
Moore & Van Allen PLLC  
Suite 4700  
100 North Tryon Street  
Charlotte, NC 28202-4003  
Telephone (704) 331-1000  
Facsimile (704) 339-5981  
Email: [markwilson@mvalaw.com](mailto:markwilson@mvalaw.com)  
*Attorneys for Plaintiff Building  
Graphics, Inc.*